

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF BELL SOUTH)	
TELECOMMUNICATIONS, INC. D/B/A)	
SOUTH CENTRAL BELL TELEPHONE CO.)	CASE NO. 94-121
TO MODIFY ITS METHOD OF REGULATION)	

O R D E R

This matter arising upon petition for rehearing of BellSouth Corporation ("BellSouth"), filed June 6, 1995, pursuant to 807 KAR 5:001, Section 7, for confidential protection of its response to Item 138 of the Attorney General's data request on the grounds that disclosure of the information is likely to cause BellSouth competitive injury, and it appearing to this Commission as follows:

As a part of this proceeding the Attorney General has submitted a series of data requests to BellSouth Telecommunications, Inc., d/b/a South Central Bell Telephone Company ("South Central Bell"). BellSouth is the parent company of South Central Bell and some of the information requested by the Attorney General is in BellSouth's sole custody and control. Even though BellSouth is not a party to this proceeding, it has voluntarily filed the information. In doing so, however, BellSouth has requested that some of the information filed be protected as confidential on the grounds that disclosure is likely to cause it competitive injury. Specifically, it seeks to protect its unconsolidated income statement and balance sheet produced in response to Item 138 of the Attorney General's information request.

On May 17, 1995, the Commission denied BellSouth's original motion for confidential protection of this response. BellSouth sought reconsideration. The petition for rehearing was denied by operation of law. The Commission, on its own motion, will now reconsider BellSouth's petition.

The information sought to be protected is not known outside of BellSouth and is not disseminated within BellSouth except to those employees who have a legitimate business need to know and act upon the information. BellSouth seeks to preserve and protect the confidentiality of the information through all appropriate means.

KRS 61.872(1) requires information filed with the Commission to be available for public inspection unless specifically exempted by statute. Exemptions from this requirement are provided in KRS 61.878(1). That section of the statute exempts several categories of information. One category exempted in paragraph (c)1 of that subsection is commercial information confidentially disclosed to the Commission which if made public would permit an unfair commercial advantage to competitors of the party from whom the information was obtained. To qualify for the exemption, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

Item 138 seeks the income statement and balance sheet for BellSouth. BellSouth maintains that disclosure would have a detrimental impact on all of its non-regulated lines of business.

Disclosure of this information would provide competitors with inside information regarding BellSouth's operations, investments, strategies, costs, and decision-making processes. Furthermore, this unconsolidated income statement and balance sheet is not filed with the Federal Communications Commission and is not a matter of public record as assumed in the Commission's original Order. Therefore, disclosure of the information is likely to cause BellSouth competitive injury and the information should be protected as confidential.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that the responses to Item 138, which BellSouth has petitioned to be withheld from public disclosure, shall be held and retained by this Commission as confidential and shall not be open to public inspection.

Done at Frankfort, Kentucky, this 12th day of July, 1995.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director